

Message Text

CONFIDENTIAL

PAGE 01 TOKYO 00936 01 OF 02 191032Z
ACTION EB-08

INFO OCT-01 EA-10 ISO-00 CAB-02 CIAE-00 COME-00
DODE-00 DOTE-00 INR-07 NSAE-00 FAA-00 L-03 SS-15
NSCE-00 INRE-00 SSO-00 /046 W
-----055428 191103Z /21
O 190935Z JAN 78
FM AMEMBASSY TOKYO
TO SECSTATE WASHDC IMMEDIATE 4476

C O N F I D E N T I A L SECTION 1 OF 2 TOKYO 0936

E.O. 11652: GDS
TAGS: EAIR, JA
SUBJECT: CIVAIR: GOJ FAILURE TO APPROVE FLYING TIGER APPLICATION

REF: TOKYO 838

1. SUMMARY: EMBASSY HAS RECEIVED FORMAL NOTE FROM MOFA DECLINING TO APPROVE FTL SINGAPORE APPLICATION WHILE CONSULTATIONS RE EXTENSION OF JULY 12 AGREED MINUTES ARE UNDERWAY. MOFA HAS AGAIN EXPRESSED ITS CONCERN THAT MATTER NOT LEAD TO CONFRONTATION LEST CONTROL OF NEGOTIATIONS SLIP TO THOSE WHO WOULD FAVOR RENOUNCING 1959 MINUTES AND POSSIBLY AGREEMENT ITSELF. END SUMMARY.

2. LATE ON JANUARY 18, MOFA CALLED IN EMBOFF TO DELIVER FORMAL REPLY TO OUR JANUARY 10 NOTE VERBALE RE FTL SINGAPORE APPLICATION. TEXT OF TRANSLATION IS AS FOLLOWS:

BEGIN TEXT.

THE MINISTRY OF FOREIGN AFFAIRS PRESENTS ITS COMPLIMENTS TO THE EMBASSY OF THE UNITED STATES OF AMERICA, AND WISHES TO INFORM THE LATTER OF THE FOLLOWING VIEWS OF THE JAPANESE GOVERNMENT CONCERNING THE MATTER WHICH WAS REFERRED TO BY THE LATTER'S NOTE DATED JANUARY 10, 1978.

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 TOKYO 00936 01 OF 02 191032Z

1. THE BASIC UNDERSTANDING OF THE JAPANESE GOVERNMENT ON THIS MATTER IS THAT CONSULTATIONS CONCERNING THE ISSUE OF EXTENSION OF THE AGREED MINUTES OF JULY 12, 1977 (HEREINAFTER REFERRED TO AS "THE AGREED MINUTES") ARE PRESENTLY ONGOING BETWEEN THE TWO GOVERNMENTS. THE CONSULTATIONS ARE BEING HELD BASED UPON THE UNDERSTANDING WHICH WAS INCORPORATED IN THE AGREED MINUTES AS FOLLOWS, "THE TWO

SIDES WILL CONSULT FOR THE PURPOSE OF CONSIDERING A LIMITED SHORT-TERM EXTENSION OF THIS UNDERSTANDING". THE JAPANESE POSITION THAT THE SAID AGREED MINUTES CONTINUE TO BE IN EFFECT IS FULLY VALID, GIVEN THE FACT THAT THE REVISION TALKS WERE POSTPONED UNTIL MARCH OF THIS YEAR. IN FACT, ACCORDING TO OUR UNDERSTANDING, IT WAS IN SUCH A CONTEXT THAT THE UNITED STATES GOVERNMENT CONSENTED TO HOLD CONSULTATIONS IN EARLY JANUARY, WHEN THIS SUBJECT MATTER WAS DISCUSSED IN WASHINGTON ON DECEMBER 24 LAST YEAR.

2. BEFORE REACHING ANY AGREEMENT CONCERNING THIS MATTER, THE UNITED STATES PRESENTED ITS UNILATERAL VIEW THAT IT IS NOT PREPARED TO ACCEPT ANY FURTHER DEROGATION FROM THE 1959 AGREED MINUTES WITH REGARD TO CAPACITY RESTRICTIONS. WE ARE NOT IN A POSITION TO AGREE TO THE U.S. POSITION WHICH IN THE NOTE OF JANUARY 10, 1978 ARGUES, BASED UPON SUCH A UNILATERAL VIEW, THAT THE FAILURE TO APPROVE THE APPLICATION BY FLYING TIGER AIRLINES TO EXTEND THREE OF ITS ALL-CARGO FLIGHTS TO SINGAPORE EFFECTIVE JANUARY 9, 1978 WAS A VIOLATION OF THE AGREED MINUTES OF JANUARY 14, 1959.

WHEN AN APPLICATION WAS MADE LAST OCTOBER BY FLYING TIGER AIRLINES TO ADD ANCHORAGE AS A NEW POINT, DIFFERENCES IN THE INTERPRETATION OF THE AGREED MINUTES BETWEEN THE TWO GOVERNMENTS BECAME APPARENT. WHEN THE JAPANESE SIDE APPROVED THE SAID APPLICATION AS AN EXCEPTIONAL CASE, IT INFORMED THE U.S. SIDE OF THE JAPANESE POLICY THAT "ANY
CONFIDENTIAL

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PAGE 03 TOKYO 00936 01 OF 02 191032Z

APPLICATION OF CHANGE OF SCHEDULE TO BE MADE BY U.S. AIRLINES IN FUTURE WHICH WILL INCLUDE AN ADDITIONAL POINT NEW TO THAT PARTICULAR AIRLINE WILL NOT BE APPROVED," WHICH WAS, AS THE JAPANESE SIDE UNDERSTANDS, ACCEPTED BY THE U.S. SIDE. SINCE THE PENDING APPLICATION OF FLYING TIGER PERTAINS TO THE PROBLEM OF ADDING A NEW POINT, IT SHOULD BE TAKEN UP IN THE CONSULTATIONS AS A PART OF THE PROBLEM OF EXTENSION OF THE AGREED MINUTES.

3. ACCORDINGLY, THERE IS NOTHING UNREASONABLE ON THE PART OF THE JAPANESE SIDE NOT TO APPROVE THE APPLICATION OF FLYING TIGER PRIOR TO THE CONCLUSION OF THE CONSULTATIONS ON THE EXTENSION OF THE AGREED MINUTES, AND, AS SUCH, THERE COULD NOT BE A CASE OF ANY VIOLATION OF THE CIVIL AIR TRANSPORT AGREEMENT BETWEEN JAPAN AND THE UNITED STATES.
END TEXT.

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PAGE 01 TOKYO 00936 02 OF 02 191036Z
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C O N F I D E N T I A L SECTION 2 OF 2 TOKYO 0936

3. DURING UNSTRUCTURED AND FRANK DISCUSSION WHICH FOLLOWED, FIRST NORTH AMERICA DIVISION DIR WATANABE AGAIN EXPRESSED HIS CONCERN THAT FTL MATTER NOT BE ALLOWED TO BECOME AN "IMMEDIATE ISSUE" WHICH MIGHT FORCE THE JAPANESE SIDE TO COUNTER WITH A DEMAND FOR REVIEW OF NORTHWEST OVERNIGHTS. HE STRESSED THAT GOJ DOES NOT REGARD ITS POSITION AS A VIOLATION OF THE 1959 AGREED MINUTES AS 1959 MINUTES CONTINUE TO BE SUPERSEDED BY THOSE OF JULY 12 DURING CONSULTATIONS RE FORMAL EXTENSION OF THE CAPACITY FREEZE.

4. WATANABE SAID JAPANESE SIDE HAD SERIOUSLY CONSIDERED WHETHER GOJ SHOULD CONCEDE ON THIS ISSUE AND APPROVE APPLICATION AS THEY DID FTL ANCHORAGE ROUTE LAST OCTOBER BUT FINALLY DECIDED THAT EACH SUCH APPROVAL ONLY WIDENED THE GAP BETWEEN U.S. AND JAPANESE RIGHTS AND TOOK THE JAPANESE IN A DIRECTION OPPOSITE FROM WHERE THE GOJ WISHED THE NEGOTIATIONS TO GO. HE RESTATED THE GOJ WILLINGNESS TO DISCUSS THE ISSUE WHEN STYLES COMES FOR AIRPORT ISSUE DISCUSSIONS. IF THE U.S. WISHES TO PURSUE THE MATTER SOONER HE SPECIFICALLY REQUESTED THAT THE U.S. APPROACH THE JAPANESE SIDE IN A MANNER WHICH COULD NOT BE PERCEIVED AS "UNREASONABLE" OR "UNEQUAL". THE MOFA WAS MOST CONCERNED THAT THERE BE NO CONFRONTATION WHICH WOULD STRENGTHEN THE HAND OF
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CONFIDENTIAL

PAGE 02 TOKYO 00936 02 OF 02 191036Z

THOSE WHO FAVOR RENUNCIATION. DANGER IS THAT CONTROL OVER THE NEGOTIATIONS COULD PASS FROM THE MOFA TO THOSE WHO WOULD FAVOR RENOUNCING THE 1959 AGREED MINUTES OR EVEN THE BILATERAL ITSELF. WATANABE SAID HE WAS NO LONGER AS SURE AS HE HAD ONCE BEEN THAT JAPAN WOULD NOT RENOUNCE THE AGREEMENT(S).

5. COMMENT: PART OF THE FRUSTRATION FELT BY BOTH THE MOFA AND EMBASSY AT THIS POINT STEMS FROM OUR MUTUAL CONCERN AS TO HOW THE FTL ISSUE IS PURSUED. WE REITERATE REQUEST REFTL THAT USCAB NOT TAKE HASTY ACTION AGAINST JAL CARGO RIGHTS AND THAT SOLUTION, ASSUMING IT CANNOT AWAIT STYLES VISIT, BE SOUGHT IN LOW-KEY MANNER THAT DOES NOT CAUSE GOJ EMOTIONS TO RISE. CLEARLY IT DOES NOT SERVE U.S. INTERESTS TO MAKE ANY PUBLIC CONNECTION BETWEEN THIS ISSUE AND STRAUSS-USHIBA AGREEMENTS.
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